

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IZELL BROWN, JR.,

Plaintiff,

vs.

**Case No.: 2:18-cv-569
JUDGE GEORGE C. SMITH
Magistrate Judge Vascura**

T. FRANCIS VENABLE, *et al.*,

Defendants.

ORDER

On August 27, 2019, the United States Magistrate Judge issued a *Report and Recommendation* recommending that both Plaintiff and Defendant Venable's Motions for Summary Judgment be denied. (*See Report and Recommendation*, Doc. 55). The parties were advised of their right to object to the *Report and Recommendation*. This matter is now before the Court on Plaintiff's Objections to the *Report and Recommendation*. (*See* Doc. 56). The Court will consider the matter *de novo*. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

In Plaintiff's objections, he asks this Court to reconsider the recommendation to deny his motion for summary judgment. Plaintiff merely restates his version of the incident at issue in this case. Plaintiff asserts that Defendant's Declaration of Nurse Trentman contradicts the interview by Institutional Inspector Zachary Gould of Nurse Trentman. He further points out inconsistencies in Defendant Venable's testimony. Plaintiff's objections, however, just reinforce the finding of the Magistrate Judge that "the record is replete with issues of material fact." (Doc. 55 at 6). When genuine issues of material fact exist, summary judgment is not proper.

Therefore, for the reasons stated in detail in the *Report and Recommendation*, this Court finds that Plaintiff's objections are without merit and are hereby **OVERRULED**. The *Report and Recommendation*, Document 55, is **ADOPTED** and **AFFIRMED**. Plaintiff's Motion for Summary Judgment (Doc. 40) is **DENIED**. Defendant Venable's Motion for Summary Judgment (Doc. 49) is **DENIED**.

The Clerk shall remove Documents 40, 49, and 55 from the Court's pending motions list.

IT IS SO ORDERED.

/s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT